

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

VERINATA HEALTH, INC., et al.,
Plaintiffs,
v.
ARIOSAS DIAGNOSTICS, INC, et al.,
Defendants.

Case No. [3:12-cv-05501-SI](#)

JURY VERDICT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

When answering the following questions and filling out this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this court as our verdict in this case.

FINDINGS ON INFRINGEMENT CLAIMS FOR THE '794 PATENT

A. Version 1 of Harmony

1. Has Illumina proven that it is more likely than not that Version 1 of Ariosa's Harmony test infringes any of claims 1, 2, 3, 9, or 13 of U.S. Patent No. 7,955,794 (the "'794 patent")?

For each of the claims below, please check "Yes" (for Illumina) or "No" (for Ariosa).

	Yes (Illumina)	No (Ariosa)
a. Claim 1	_____	_____
b. Claim 2	_____	_____
c. Claim 3	_____	_____
d. Claim 9	_____	_____
e. Claim 13	_____	_____

B. Express License

2. Has Ariosa proven that it is more likely than not that it received an express license from Illumina for Version 1 of Ariosa's Harmony test?

Yes _____ (for Ariosa) No _____ (for Illumina)

C. Version 2 of Harmony

3. Has Illumina proven that it is more likely than not that Version 2 of Ariosa's Harmony test infringes any of claims 1, 2, 3, 9, or 13 of the '794 patent?

For each of the claims below, please check "Yes" (for Illumina) or "No" (for Ariosa).

	Yes (Illumina)	No (Ariosa)
a. Claim 1	_____	_____
b. Claim 2	_____	_____
c. Claim 3	_____	_____
d. Claim 9	_____	_____
e. Claim 13	_____	_____

FINDINGS ON INVALIDITY FOR THE '794 PATENT

A. Anticipation

4. Has Ariosa proven that it is highly probable that any of claims 1, 2, 3, 9, or 13 of the '794 patent were "anticipated"?

For each of the claims below, please check "Yes" (for Ariosa) or "No" (for Illumina).

	Yes (Ariosa)	No (Illumina)
a. Claim 1	_____	_____
b. Claim 2	_____	_____
c. Claim 3	_____	_____
d. Claim 9	_____	_____
e. Claim 13	_____	_____

FINDINGS ON WILLFUL INFRINGEMENT FOR THE '794 PATENT (IF APPLICABLE)

A. Willful Infringement

If there are any claims of the '794 patent for which you answered "Yes" to question 1 **and** "No" to question 2 and question 4 or "Yes" to question 3 **and** "No" to question 4, please answer the following question. Otherwise, proceed to "FINDINGS ON INFRINGEMENT CLAIMS FOR THE '430 PATENT."

5. Has Illumina proven that it is more likely than not that Ariosa's infringement was willful?

Yes ____ (for Illumina) No ____ (for Ariosa)

FINDINGS ON INFRINGEMENT CLAIMS FOR THE '430 PATENT

A. Infringement

6. Has Verinata proven that it is more likely than not that Version 1 of Ariosa's Harmony test infringed any of claims 1, 4, or 7 of U.S. Patent No. 8,318,430 (the "'430 patent")?

For each of the claims below, please check "Yes" (for Verinata) or "No" (for Ariosa).

	Yes (Verinata)	No (Ariosa)
a. Claim 1	_____	_____
b. Claim 4	_____	_____
c. Claim 7	_____	_____

FINDINGS ON INVALIDITY FOR THE '430 PATENT

A. Enablement

7. Has Ariosa proven that it is highly probable that the specification of the '430 patent does not contain a description of the claimed invention that is sufficiently full and clear to enable persons of ordinary skill in the field to make and use the invention for any of claims 1, 4, or 7 of the '430 patent?

For each of the claims below, please check "Yes" (for Ariosa) or "No" (for Verinata).

	Yes (Ariosa)	No (Verinata)
a. Claim 1	_____	_____
b. Claim 4	_____	_____
c. Claim 7	_____	_____

B. Written Description Requirement

8. Has Ariosa proven that it is highly probable that the specification of the '430 patent does not contain an adequate written description of the claimed invention for any of claims 1, 4, or 7 of the '430 patent?

For each of the claims below, please check "Yes" (for Ariosa) or "No" (for Verinata).

	Yes (Ariosa)	No (Verinata)
a. Claim 1	_____	_____
b. Claim 4	_____	_____
c. Claim 7	_____	_____

FINDINGS ON WILLFUL INFRINGEMENT (IF APPLICABLE)

A. Willful Infringement

If there are any claims of the '430 patent for which you answered "Yes" to question 6 **and** "No" to questions 7 and 8, please answer the following question. Otherwise, proceed to "FINDINGS ON PATENT DAMAGES (IF APPLICABLE)."

1 9. Has Verinata proven that it is more likely than not that Ariosa's infringement was
2 willful?

3 Yes ____ (for Verinata) No ____ (for Ariosa)

4
5 **FINDINGS ON PATENT DAMAGES (IF APPLICABLE)**

6 **A. Damages for the '794 patent (If Applicable)**

7 If there are any claims of the '794 patent for which you answered "Yes" to question 1 and
8 "No" to questions 2 and question 4 or "Yes" to question 3 and "No" to question 4, please answer
9 the question below. Otherwise, please proceed to the "Damages for the '430 Patent (If
10 Applicable)" section to determine whether that section is applicable.

11 Because this case involves two different plaintiffs and two different patents, the answer to
12 the question below should not take into account any of your answers to the questions relating to
13 Verinata or the '430 patent. You should not include in your response any damages that you believe
14 Verinata or any other entity is entitled to, or any damages that you award below for the '430
15 patent.

16 10. What damages has Illumina proven that it is more likely than not entitled to as a
17 result of Ariosa's infringement of the '794 patent?

18 _____ (words)

19 \$_____ (numbers)

20
21 **B. Damages for the '430 Patent (If Applicable)**

22 If, for any claims of the '430 patent, you answered "Yes" to question 6 **and** "No" to
23 questions 7 and 8, please answer the question below. Otherwise, please proceed to "FINDINGS
24 ON ARIOSAS'S COUNTERCLAIMS."

25 Because this case involves two different plaintiffs and two different patents, the answer to
26 the question below should not take into account any of your answers to the questions relating to
27 Illumina or the '794 patent. You should not include in your response any damages that you
28

1 believe Illumina or any other entity are entitled to, or any damages that you awarded above for the
2 '794 patent.

3 11. What amount has Verinata proven that it is more likely than not entitled to as a
4 result of Ariosa's infringement of the '430 patent?

5 _____ (words)

6 \$_____ (numbers)

7
8
9 **FINDINGS ON ARIOSAS COUNTERCLAIMS**

10 **A. Breach of Contract**

11 12. Has Ariosa proven that it is more likely than not that Illumina breached its
12 contractual obligations under the 2012 Sale and Supply Agreement?

13 Yes ____ (for Ariosa) No ____ (for Illumina)

14
15 **B. Willful or Intentional Injury**

16 13. Has Ariosa proven that it is more likely than not that Illumina willfully or
17 intentionally injured Ariosa through its breach of contract?

18 Yes ____ (for Ariosa) No ____ (for Illumina)

19
20 **C. Breach of Covenant of Good Faith and Fair Dealing**

21 14. Has Ariosa proven that it is more likely than not that Illumina breached the
22 covenant of good faith and fair dealing implied in the 2012 Sale and Supply Agreement?

23
24 Yes ____ (for Ariosa) No ____ (for Illumina)

25 If you answered "Yes" to question 12 or 14, proceed to question 15. Otherwise, proceed to
26 the end of the verdict form.

FINDINGS ON ARIOSAS CONTRACT DAMAGES (IF APPLICABLE)

15. What is the dollar amount that Ariosa is entitled to receive from Illumina's breach of contract and/or breach of covenant of good faith and fair dealing?

_____ (words)

\$_____ (numbers)

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. The Presiding Juror should then sign and date the verdict form in the spaces below and notify the Courtroom Deputy that you have reached a verdict. The Presiding Juror should retain possession of the verdict form and bring it when the jury is brought back into the courtroom.

Date: _____

By: _____

Presiding Juror